

103^D CONGRESS
2^D SESSION

S. 1965

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to establish a national clearinghouse to assist in background checks of law enforcement applicants.

IN THE SENATE OF THE UNITED STATES

MARCH 24 (legislative day, FEBRUARY 22), 1994

Mr. GRAHAM introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to establish a national clearinghouse to assist in background checks of law enforcement applicants.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Law Enforcement and
5 Correctional Officers Employment Registration Act of
6 1994”.

7 **SEC. 2. FINDINGS.**

8 The Congress finds that—

1 (1) law enforcement officials, including mem-
2 bers of the International Association of Chiefs of Po-
3 lice recognize that violent crime represents the
4 greatest threat to the safety and security of citizens
5 and that dedicated, ethical law enforcement profes-
6 sionals and lawful community initiatives with partici-
7 pation by members of the community represent the
8 best hope of responding to the challenges of violent
9 crime;

10 (2) the International Association of Chiefs of
11 Police acknowledges that a few officers choose to
12 violate the public trust by abusing their authority or
13 by breaking the law. Such officers should not be able
14 to seek police employment in another state or juris-
15 diction with the expectation that they will be able to
16 conceal their history of misconduct;

17 (3) there have been numerous documented
18 cases of officers who have obtained officer employ-
19 ment and certification in a state after revocation of
20 officer certification or dishonorable discharge in an-
21 other state;

22 (4) a national clearinghouse of officer employ-
23 ment histories would enable each criminal justice
24 agency to conduct thorough background checks on

1 officer applicants and to assure that only honest eth-
2 ical officers are permitted to serve; and

3 (5) Federal legislation is needed that would re-
4 quire Federal registration of employment termi-
5 nation data of law enforcement officers and correc-
6 tional officers.

7 **SEC. 3. REGISTRATION.**

8 Subpart 1 of part E of the Omnibus Crime Control
9 and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.)
10 is amended by adding at the end thereof the following:

11 “REGISTRATION OF EMPLOYMENT DATA OF LAW
12 ENFORCEMENT AND CORRECTIONAL OFFICERS.

13 “SEC. 509a. a(1) The Governor of each State, or
14 chief executive of each territory of the United States, the
15 District of Columbia or a Native American Indian tribe
16 or band that receives funds under section 506 in a fiscal
17 year shall designate the state peace officer standards
18 board or its equivalent which shall submit a list, main-
19 tained electronically, of all law enforcement and correc-
20 tional officers who held such office in such State or terri-
21 tory, the District of Columbia or a Native American In-
22 dian tribe or band on or since January 1, 1994, in accord-
23 ance with paragraph (2). The list shall be submitted to
24 an officer or agency designated by the Attorney General
25 of the United States. The head of each department, agen-
26 cy, or other entity in the executive branch of the United

1 States Government that employs law enforcement or cor-
2 rectional officers shall submit a list of all such personnel
3 employed on or after January 1, 1994. Such list shall be
4 updated and supplemented by agencies or officials respon-
5 sible for submission of employment data in accordance
6 with subsection (b).

7 “(2) Such list shall include the names (and any
8 former names), dates of birth, social security numbers,
9 Federal Bureau of Investigation fingerprint identification
10 numbers if known, the dates of appointment as officers
11 if known, the names and addresses or National Crime In-
12 formation Center numbers of the appointing or employing
13 agencies, and if applicable, the dates such service ended
14 for such officers.

15 “(b) The agency or official responsible for submission
16 of such employment data shall, not later than 90 days
17 after an officer’s employment, appointment, or separation
18 from employment or appointment, notify the agency or of-
19 ficer designated by the Attorney General of the United
20 States to receive such employment data, that a law en-
21 forcement officer or correctional officer has been ap-
22 pointed or employed as an officer, or that a registered offi-
23 cer is no longer empowered or employed as such. If the
24 former officer has had officer certification revoked for
25 cause, that fact shall be reported.

1 “(c) For purposes of the section:

2 “(1) The term ‘law enforcement officer’ means
3 a federal law enforcement officer, or an individual
4 who is elected or appointed by a State or territory,
5 or a political subdivision thereof, by the District of
6 Columbia or by a Native American Indian tribe or
7 band, to conserve the peace, or to make arrests or
8 serve warrants, or to otherwise possess or exercise
9 the authority of a peace officer. In the case of law
10 enforcement officers elected or appointed by a State
11 or a political subdivision thereof, ‘law enforcement
12 officer’ only includes those required by the applicable
13 law of the State to be licensed or certified.

14 “(2) The term ‘correctional officer’ means a
15 federal correctional officer, or an individual who is
16 elected or appointed by a State or territory, or a po-
17 litical subdivision thereof, by the District of Colum-
18 bia or by a Native American Indian tribe or band to
19 guard or supervise prisoners or inmates of jails or
20 other detention, penal or correctional facilities. In
21 the case of correctional officers elected or appointed
22 by a State or a political subdivision thereof, ‘correc-
23 tional officer’ only includes those required by the ap-
24 plicable law of the state to be licensed or certified.

1 (3) “The term ‘certification revoked for cause’
2 means cancellation or revocation of an individual’s
3 law enforcement officer or correctional officer state
4 professional license by a state peace officer stand-
5 ards board or its equivalent after administrative due
6 process has been afforded the officer.”

7 A ‘law enforcement officer’ or ‘correctional officer’ in-
8 cludes an individual whether compensated for services or
9 not, whether full- or part-time, and whether appointment,
10 election or term of office is temporary or permanent. Such
11 terms do not include citizens who are called to assist an
12 officer in the performance of the officer’s duties, unless
13 such citizen received a deputation or commission of ap-
14 pointment lasting longer than 30 days.

15 “(d)(1) As a condition of employment, each State,
16 territory, or political subdivision thereof, the District of
17 Columbia, each Native American Indian tribe or band and
18 each federal agency that employs law enforcement officers
19 or correctional officers shall require all applicants for ap-
20 pointment to or employment in such positions before be-
21 ginning employment—

22 “(A) to disclose all prior service or employment
23 as a law enforcement or correctional officer, and

1 “(B) to submit a written authorization and re-
2 quest for release of information, on a form pre-
3 scribed by the Attorney General or designee.

4 “(2) When a prospective law enforcement or correc-
5 tional employer obtains an officer’s required written au-
6 thorization and request for release of information, the At-
7 torney General (or designee) is directed to release all data
8 collected under subsections (a) and (b) of this section to
9 such prospective employer.

10 “(3) Upon receipt of completed written authorization
11 and request for release of information, and not later than
12 30 days after such officer is first appointed or employed
13 or at any time prior to the appointment or employment
14 of an applicant, each State, territory, and political subdivi-
15 sion thereof, the District of Columbia, each Native Amer-
16 ican Indian tribe or band and each federal agency that
17 employs law enforcement or correctional officers shall no-
18 tify the Attorney General (or designee).

19 “(e) The Attorney General shall issue regulations for
20 the implementation of this section and the operation of
21 the employment data clearinghouse.

22 “(f) Agencies or agency administrators who submit
23 employment or officer certification data pursuant to this
24 section are presumed to be acting in good faith and, unless
25 lack of good faith is shown by clear and convincing evi-

1 dence, are immune from civil liability for such disclosure
2 or its consequences. The presumption of good faith is re-
3 butted upon a showing that the data was submitted with
4 knowledge of its falsity or was submitted with the mali-
5 cious intent to deliberately mislead.”.

6 **SEC. 4. EFFECTIVE DATE.**

7 (a) IN GENERAL.—This Act shall take effect October
8 1, 1994.

9 (b) INFORMATION COMPLIANCE.—Lists required
10 under section 509a (a) of the Omnibus Crime Control and
11 Safe Streets Act of 1968 shall be submitted not later than
12 180 days after the enactment of this Act. Not later than
13 180 days after the date of the enactment of this Act, each
14 State, territory, or political subdivision thereof, the Dis-
15 trict of Columbia, each Native American Indian tribe or
16 band and each federal agency employing law enforcement
17 and correctional officers shall comply with the require-
18 ments described in subsection (d) of section 509a of the
19 Omnibus Crime Control and Safe Streets Act of 1968.
20 The Director of the Bureau of Justice Assistance may au-
21 thorize grants to agencies to assist in their compliance
22 with Subsection (1) of this Act.

23 **SEC. 5. REPORTS.**

24 Not later than 2 years after the date of the enact-
25 ment of this Act, the Attorney General, upon consultation

1 with the Director of the Bureau of Justice Assistance,
2 shall submit a report to the Committees on the Judiciary
3 of the House of Representatives and the Senate evaluating
4 the compliance with the requirements of section 509a of
5 the Omnibus Crime Control and Safe Streets Act of 1968,
6 and listing each State, territory, or political subdivision
7 thereof, the District of Columbia, each Native American
8 Indian tribe or band and each federal agency employing
9 law enforcement or correctional officers that has failed
10 materially to comply with the requirements of this section.
11 Such subsequent reports shall be presented as are deemed
12 appropriate by the Attorney General.

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